

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING PHARMACY, INC. PRODUCTS LIABILITY LITIGATION	MDL No. 2419 Dkt. No. 1:13-md-2419 (FDS)
THIS DOCUMENT RELATES TO: All Actions	

**PLAINTIFFS' STEERING COMMITTEE'S NOTICE
OF FILING OF SECOND AMENDED MASTER COMPLAINT**

At the Status Conference held on January 14, 2015, the Court noted that there are certain claims in the Master Complaint that should be eliminated in recognition of the Court's rulings on various motions to dismiss.¹ Accordingly, the PSC hereby gives notice of the following:

1. The Second Amended Master Complaint is being filed contemporaneously with this Notice.
2. The Second Amended Master Complaint incorporates (i) the allegations contained in the original Master Complaint filed on November 5, 2013 (Doc. 545), and (ii) the First Amendment to Master Complaint filed on January 31, 2014 (Doc. 832), with amendments to reflect the rulings of the Court on several dispositive motions since the original filing, including MDL 2419 documents numbered 1360, 1556, 1642 and 1643.
3. The amendments include elimination of all claims against Clinic Related Defendants based on allegations of battery, civil conspiracy, and agency between the subject Clinic Related Defendant and NECC (absent a written agency agreement between such parties).

¹Transcript of Status Conference, January 14, 2015, p. 35. *See also*, Transcript of Status Conference, February 17, 2015, p. 13 ("[T]he PSC will amend the master complaint to remove certain counts that this Court has already ruled on."); and proposed Order filed with PSC's Motion to Enter Case Management Order Governing Coordination of Dispositive Motions (Doc. 1711-1), p. 1.

Plaintiffs should review the Second Amended Master Complaint and, in light of such amendments, if necessary to preserve claims based on a set of facts different from those upon which the Court has already ruled, may wish to amend their short form complaints.²

4. Although UniFirst and several provider defendants have entered into settlement agreements in connection with the proposed bankruptcy plan in NECC's bankruptcy, and statutes of limitations have been tolled against some of those defendants, allegations concerning those defendants remain in the Second Amended Master Complaint pending final approval of those settlement agreements through confirmation of the bankruptcy plan.

5. The filing of this Second Amended Master Complaint is not intended to waive any right to appeal this Court's rulings on dispositive motions.

Date: March 6, 2015

Respectfully submitted:

/s/ Patrick T. Fennell
Patrick T. Fennell
CRANDALL & KATT
366 Elm Avenue, S.W.
Roanoke, VA 24016
Telephone: 540/342-2000
Facsimile: 540/400-0616
pfennell@crandalllaw.com

Plaintiffs' Steering Committee

Thomas M. Sobol
Kristen Johnson Parker
HAGENS BERMAN SOBOL SHAPIRO, LLP
55 Cambridge Parkway, Suite 301
Cambridge, MA 02142
Telephone: 617/482-3700

² For example, any plaintiff who wishes to base a claim on allegations of agency as reflected in a written agency agreement may wish to amend their short form complaint to reflect such allegations. Similarly, claims based on allegations of civil conspiracy have been dismissed by the Court largely due to the failure of plaintiffs to sufficiently allege an underlying tort to support the civil conspiracy allegation. Any plaintiff who can support a civil conspiracy claim with sufficient allegations of an underlying tort, or for whom state law does not require an underlying tort, may wish to amend their short form complaint to reflect such allegations.

Facsimile: 617/482-3003

tom@hbsslaw.com

kristenj@hbsslaw.com

Plaintiffs' Lead Counsel

Elizabeth J. Cabraser

Mark P. Chalos

LIEFF CABRASER, HEIMANN & BERNSTEIN, LLP

275 Battery Street, 29th Floor

San Francisco, CA 94111

Telephone: 415/956-1000

Facsimile: 415/956-1008

ecabraser@lchb.com

mchalos@lchb.com

Federal/State Liaison

Marc E. Lipton

LIPTON LAW

18930 W. 10 Mile Road

Southfield, MI 48075

Telephone: 248/557-1688

Facsimile: 248/557-6344

marc@liptonlaw.com

Kimberly A. Dougherty

JANET, JENNER & SUGGS, LLC

31 St. James Avenue, Suite 365

Boston, MA 02116

Telephone: 617/933-1265

kdougherty@myadvocates.com

Mark Zamora

ZAMORA FIRM

6 Concourse Parkway, 22nd Floor

Atlanta, GA 30328

Telephone: 404/451-7781

Facsimile: 404/506-9223

mark@markzamora.com

J. Gerard Stranch, IV

Benjamin A. Gastel

BRANSTETTER, STRANCH &

JENNINGS, PLLC

227 Second Avenue North

Nashville, TN 37201
Telephone: 615/254-8801
Facsimile: 615/255-5419
gerards@bsjfirm.com
beng@bsjfirm.com

Plaintiffs' Steering Committee

CERTIFICATE OF SERVICE

I, Patrick T. Fennell, hereby certify that I caused a copy of the foregoing *Plaintiffs' Steering Committee's Notice of Filing of Second Amended Master Complaint* to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Date: March 6, 2015

/s/Patrick T. Fennell
Patrick T. Fennell (VSB 40393))